

ORDINANCE NO. 2011-1

AN ORDINANCE AMENDING THE ZONING CODE OF LYKENS TOWNSHIP, COUNTY OF DAUPHIN, COMMONWEALTH OF PENNSYLVANIA, AMENDING ARTICLE 19, ADDING SECTION 1920, ADDING REGULATIONS FOR OIL AND GAS EXPLORATION, AMENDING DEFINITIONS, ESTABLISHING PERMIT REQUIREMENTS; REGULATING THE OPERATION, INSTALLATION AND MAINTENANCE OF THE EXPLORATION; ESTABLISHING THE PENALTIES FOR VIOLATIONS OF THE ORDINANCE; ESTABLISHING A RIGHT OF ORDINANCE SEVERABILITY AND SETTING FORTH AN ORDINANCE DATE OF EFFECT.

BE IT ENACTED AND ORDAINED BY LYKENS TOWNSHIP, COUNTY OF DAUPHIN, PENNSYLVANIA, AND IT IS HEREBY ENACTED AND ORDAINED BY THE AUTHORITY THE SAME AS FOLLOWS:

**Section 1.** The Code of the Township of Lykens Dauphin County, Article , Table of Contents is amended to add the following:

1. 1920. Oil and Gas Exploration

**Section 2.** The Code of the Township of Lykens Dauphin County, Article 2, Section 203, List of Definitions is amended to add the following definitions:

1. "Applicant" – Any person, Owner, Operator, partnership, company, corporation and its subcontractors and agents who has an interest in real estate for the purpose of exploring or drilling for, producing, or transporting Oil or Gas.
2. "Building" – An occupied structure with walls and roof in which persons live or customarily work.
3. "Dam" – A body of water directly fed by discharge of a stream or river.
4. "Department" – The Department of Environmental Protection of the Commonwealth.
5. "Drilling Pad" – The area of surface operations surrounding the surface location of a well or wells.
6. "Collector Street" – A public street or road which, in addition to providing access to abutting lots, intercepts Local Streets and provides a route for carrying considerable volumes of local traffic to community facilities and arterial streets.

7. "Local Street" – A public street or road designed to provide access to abutting lots and to discourage through traffic.
8. "Natural Gas Compressor Station" – A facility designed and constructed to compress natural gas that originates from a gas well or collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, Natural Gas Processing Plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.
9. "Natural Gas Processing Plant" – A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from the natural gas.
10. "Oil and Gas" – Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other constituents or similar substances that are produced by drilling an Oil or Gas Well.
11. "Oil and Gas Development or Development" – The well site preparation, construction, drilling, hydraulic fracturing, and/or site restoration associated with an Oil or Gas Well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of Oil and Gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of Oil and Gas. The definition does not include Natural Gas Compressor Stations and Natural Gas Processing Plants or facilities performing the equivalent functions.

12. "Oil or Gas Well" – A pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting or injecting Gas, Oil, petroleum or another liquid related to Oil or Gas production or storage, including brine disposal.
13. "Oil or Gas Well Site" – The location where facilities, structures, materials and equipment whether temporary or permanent, necessary for or incidental to the preparation, construction, drilling, production or operation of an Oil or Gas Well. This definition also includes exploratory wells.
14. "Operator" – The person designated as the well Operator on the permit application or well registration.
15. "Owner" – A person, who owns, manages, leases, controls or possesses an Oil or Gas Well.
16. "Pad Drilling" – The drilling of multiple wells from a single location.
17. "Pond" – A body of water directly fed by discharge of an underground spring.
18. "Storage Well" – A well used for and in connection with the underground storage of natural gas, including injection into or withdrawal from an underground storage reservoir for monitoring or observation of reservoir pressure.
19. "Well Pad" – The area used for development and production of Oil and Gas including buildings and structures and all activities associated with an Oil and Gas Well after drilling activities are complete.

**Section 2.** The Code of the Township of Lykens Dauphin County, Article 19, General Regulations, Section 1920, Oil and Gas Exploration is added to read as follows:

**Section 1920. Oil and Gas Exploration.**

- A. PURPOSE: The purpose of this ordinance is to provide, through zoning and flood plain management provisions, for the reasonable development of land for Oil and Gas drilling while providing adequate health, safety and general welfare protections of the Lykens Township residents. Oil and Gas exploration, drilling and extraction

operations involve activities that are economically important and will impact the Lykens Township. Accordingly, it is necessary and appropriate to adopt reasonable requirements for Oil and Gas resource development so that these resources can be obtained in a manner that is economically remunerative, and that minimizes the potential impact on the residents of the Lykens Township. Local governments are preempted from regulating the same features Oil and Gas Well operations or accomplishing the same purposes regulated under the PA Oil and Gas Act. Local zoning regulates surface land use.

**B. ZONING CLASSIFICATIONS:** Subject to the provisions of this ordinance:

1. An Oil or Gas Well Site may be permitted in, Conservation, Light Industrial and Commercial-Business Zoning Districts as a special exception. To apply for a special exception refer to Section 2209.
2. A Natural Gas Compressor Station or a Natural Gas Processing Plant or any similar facilities performing the equivalent functions may be permitted in Conservation, Light Industrial and Commercial-Business Zoning Districts as a special exception. To apply for a special exception refer to Section 2209.

**C. APPLICABILITY:**

1. This ordinance applies to all Oil and Gas Well Sites, Natural Gas Compressor Stations, and Natural Gas Processing Plants that will be permitted or constructed after the effective date of the ordinance.
2. Oil and Gas Well Sites, Natural Gas Compressor Stations, and Natural Gas Processing Plants that were permitted or constructed prior to the adoption of this ordinance shall not be required to meet the requirements of this ordinance; provided that any modification to an existing or permitted Oil or Gas Well Site that occurs after the effective date of this ordinance and materially alters the size, type, location, number of wells and other accessory equipment or structures, or any expansion (capacity or footprint) to an existing Natural Gas Compressor Station or Natural Gas Processing Plant shall require compliance with and a permit under this ordinance.

**D. PERMIT REQUIREMENT:**

1. No Oil or Gas Well Site, Natural Gas Compressor Station, or Natural Gas Processing Plant or an addition to an existing Oil or Gas Well Site, Natural Gas Compressor Station, or Natural Gas Processing Plant shall be constructed or located within Lykens Township unless a permit under this

ordinance has been issued by Lykens Township to the Owner or Operator approving the construction or preparation of the site for Oil or Gas Development or construction of Natural Gas Compressor Stations or Natural Gas Processing Plants.

2. The permit application, or amended permit application, shall be accompanied by a fee as established in the Lykens Township's schedule of fees.
3. Any modification to an existing and permitted Oil or Gas Well Site that materially alters the size, location, number of wells or accessory equipment or structures, or any modification to an existing Natural Gas Compressor Station or Natural Gas Processing Plant shall require a modification of the permit under this ordinance. Like-kind replacements shall not require a permit modification.

E. PRE-APPLICATION CONFERENCES: (optional)

1. Purpose. Before submitting an application the Applicant is strongly encouraged to meet with the Lykens Township staff to determine the requirements of and the procedural steps and timing of the application. The intent of this process is for the Applicant to obtain necessary information and guidance from the Lykens Township staff before entering into any commitments or incurring substantial expenses with regard to the site and plan preparation. Lykens Township shall schedule a conference within thirty (30) days of receiving any such request from an Applicant.
2. Process. A pre-application conference is totally voluntary on the part of the Applicant and shall not be deemed the beginning of the time period for review as prescribed by law. The pre-application conferences are intended for the benefit of the Applicant in order to address the required permit submittals and are advisory only and shall not bind the Lykens Township to approve any application for a permit or to act within any time limit relative to the date of such conference.

F. PROCEDURE:

1. Seismic Testing does not require a zoning permit.
2. Installation of gathering and transmission pipelines does not require a zoning permit.

3. A Zoning/Development Permit shall be obtained for each Well Pad (Consideration may be given to create a streamlined process for well pads, pipelines, and compressors, as determined reasonable by Lykens Township.
4. When multiple wells are located on the same Well Pad, a separate permit for each well is not required. However, written notification must be provided to the Zoning Administrator at least 14 days, but no more than 90 days, prior to drilling of each well not already identified in a Zoning/Development Permit.

G. PERMIT APPLICATION:

1. The Applicant shall provide to Lykens Township at the time of permit application:
  - a. A narrative describing an overview of the project including the number of acres to be disturbed for development, the number of wells to be drilled including DEP permit number(s) for any or all wells, if available, at the time of submittal and provided when issued later, and the location, number and description of equipment and structures to the extent known.
  - b. For Natural Gas Compressor Stations or Natural Gas Processing Plants, a narrative describing an overview of the project.
  - c. The address of the Oil or Gas Well Site, Natural Gas Compressor Station or Natural Gas Processing Plant as determined by the County 911 addressing program for information of Emergency Responders.
  - d. The contact information of the individual or individuals responsible for the operation and activities at the Oil or Gas Well Site shall be provided to Lykens Township and all applicable Emergency Responders as determined by Lykens Township. Such information shall include a phone number where such individual or individuals can be contacted twenty-four hours per day, three-hundred sixty-five days a year. Upon any change of relevant circumstances, the Applicant, as necessary in order to comply with this requirement, shall update such information and provide it to Lykens Township and all applicable Emergency Providers.
  - e. A location map of the Oil or Gas Well Site showing the Drilling Pad, planned access roads, the location of derricks, drilling rigs, equipment

and structures and all permanent improvements to the site and any post construction surface disturbance in relation to natural resources. Included in this map shall be an area within the development site for vehicles to locate while gaining access to the Oil or Gas Well Site configured such that the normal flow of traffic on public streets shall be undisturbed.

- f. A location map of the Natural Gas Compressor Station or Natural Gas Processing Plant including any major equipment and structures and all permanent improvements to the site.
- g. A description of the transportation of materials and equipment to construct and maintain the Oil or Gas Well Site during construction, drilling and operation.
- h. A statement or evidence that, prior to the commencement of any activity at the Oil or Gas Well Site, the Applicant shall have accepted and complied with any applicable bonding and permitting requirements and shall have entered into a Lykens Township roadway maintenance and repair agreement with Lykens Township, in a form acceptable to the Lykens Township regarding the maintenance and repair of Lykens Township streets that are to be used by vehicles for site construction and drilling activities. Include a description of how damage to public roads adjacent to the tract will be addressed.
- i. A description of, and commitment to maintain, safeguards that shall be taken by the Applicant to ensure that Lykens Township streets utilized by the Applicant shall remain substantially free of dirt, mud and debris resulting from site development activities; and the Applicant's assurance that such streets will be promptly swept or cleaned if significant dirt, mud and debris occur as a result of Applicant's usage.
- j. A statement that the Applicant will make the operation's Preparedness, Prevention and Contingency Plan available to Lykens Township and all Emergency Responders at least 30 days prior to drilling of an Oil or Gas Well and at least annually thereafter while drilling activities are taking place at the Oil or Gas Well Site.

- k. An appropriate site orientation and training course of the Preparedness, Prevention and Contingency Plan for all Emergency Responders. The cost and expense of the orientation and training shall be sole responsibility of the Applicant. If multiple wells/Well Pads are in the same area (covered by the same emergency response agencies), evidence of a training course issued to the appropriate emergency responders in the last 12 months shall be accepted. Site orientation for each well/Well Pad shall still be required for the appropriate Emergency Responders, as determined by Lykens Township.
2. Within 30 days after receipt of a permit application, Lykens Township will determine whether the application is complete and adequate and advise the Applicant accordingly.
  3. If the application is complete and adequate, the Applicant shall receive its permit within 45 days following the date the application was first submitted.
  4. If the application is incomplete and/or inadequate Lykens Township will notify the Applicant of the missing or inadequate material and, upon receiving said material, issue the permit within 30 days following receipt.
  5. As a condition of permit approval, Applicant shall provide all permits and plans from the Pennsylvania Department of Environmental Protection and all other appropriate regulatory agencies within 30 days of receipt of such permits and plans.
  6. Access directly to State roads shall require Pennsylvania Department of Transportation (PADOT) Highway Occupancy Permit Approval. Prior to initiating any work at a drill site, Lykens Township shall be provided a copy of the Highway Occupancy Permit.
  7. Access directly to Lykens Township roads shall require a Lykens Township Driveway Permit prior to initiating any work at a Well Site.

8. If temporary housing for Well Site workers is proposed on the well site, a plan showing the number and location of the units shall be provided to Lykens Township. Temporary housing plans shall be in compliance with all applicable Lykens Township regulations.

G. SITE DESIGN AND INSTALLATION:

1. Access.
  - a. Vehicular access to any Natural Gas Well, Oil Well or Well Pad shall minimize danger to traffic and nuisance to surrounding properties.
  - b. No oil or gas well site shall have access solely through a local street. Whenever possible, access to the oil or gas well site should be from a collector street.
  - c. Accepted professional standards pertaining to minimum traffic sight distances for all access points shall be adhered to.
  - d. Beginning with its intersection with a public street, any access road or driveway for the development or drill site shall be paved with an impervious material for the first one hundred sixty feet (160').
2. Height.
  - a. Permanent structures associated with an Oil and Gas Well Site, both principal and accessory, shall comply with the height regulations for the zoning district in which the Oil or Gas Well Site is located.
  - b. Permanent structures associated with Natural Gas Compressor Stations or Natural Gas Processing Plants shall comply with the height regulations for the zoning district in which the Natural Gas Compressor Station or Natural Gas Processing Plant is located.
  - c. There shall be an exception to the height restrictions contained in this section for the temporary placement of drilling rigs, drying tanks, Pad Drilling and other accessory uses necessary for the actual drilling or redrilling of an Oil or Gas Well. The duration of such exemption shall not exceed the actual time period of drilling or redrilling of an Oil or Gas Well or Pad Drilling.
3. Setbacks/Location.
  - a. Setback distances shall follow requirements listed in the Pennsylvania Oil and Gas Act (PA Act 223), 25 Pa. Code Sec. 78.1 et seq., 25 Pa.

- Code Sec. 79.1 et seq., and general setback requirements of the zoning district in which the Oil or Gas Development is located.
- b. Drilling rigs and water storage dams shall be located a minimum setback distance of five-hundred feet (500') from any property line, public or private street, or building not related to the drilling operations on either the same lot or an adjacent lot.
  - c. Drilling rigs and water storage dams shall be located a minimum setback distance of one-thousand feet (1,000') from any water well.
  - d. Drilling rigs and water storage dams shall be located a minimum setback distance of five hundred feet (500') from any stream, dam, or pond.
  - e. Natural Gas Compressor Stations or Natural Gas Processing Plants shall comply with all general setback and buffer requirements of the zoning district in which the Natural Gas Compressor Station or Natural Gas Processing Plant is located.
  - f. Recognizing that the specific location of equipment and facilities is an important and integral part of the Oil and Gas Development, and as part of the planning process, Operator shall strive to consider location of its temporary and permanent operations, where prudent and possible, so as to minimize interference with Lykens Township's residents' enjoyment of their property and future Lykens Township development activities as authorized by Lykens Township applicable ordinances.
4. Screening and Fencing.
- a. Security fencing shall not be required at Oil or Gas Well Sites during the initial drilling, or redrilling operations, as long as manned 24-hour on-site supervision and security are provided.
  - b. Upon completion of drilling or redrilling in Commercial Zones, security fencing consisting of a permanent chain link fence shall be promptly installed at the Oil or Gas Well Site to secure well heads, storage tanks, separation facilities, water or liquid impoundment areas, and other mechanical and production equipment and structures on the Oil or Gas Well Site. Lykens Township may use its discretion to

determine whether fencing requirements shall be enforced in other zones.

- c. Security fencing shall be at least 6 feet in height equipped with lockable gates at every access point and having openings no less than 12 feet wide. Additional lockable gates used to access Oil and Gas Well Sites by foot may be allowed, as necessary.
- d. Lykens Township First Responders shall be given means to access Oil or Gas Well Sites in case of an emergency. Applicant must provide County 911 Communications Center necessary information to access the Well Pad in case of an emergency.
- e. Warning signs shall be placed on the fencing surrounding the Oil or Gas Well Site providing notice of the potential dangers and the contact information in case of an emergency. During drilling and hydraulic fracturing, clearly visible warning signage must be posted on the pad site.
- f. In construction of Oil or Gas Well Sites the natural surroundings should be considered and attempts made to preserve existing trees and other native vegetation. Existing trees and respective root systems should not be disturbed whenever possible.

5. Lighting.

- a. Lighting at the Oil or Gas Well Site, or other facilities associated with Oil and Gas Drilling Development, either temporary or permanent, shall be directed downward and inward toward the activity, to the extent practicable, so as to minimize the glare on public roads and adjacent properties.
- b. Lighting at a Natural Gas Compressor Station or a Natural Gas Processing Plant shall, when practicable, be limited to security lighting.

6. Noise.

- a. The Applicant shall take the following steps to minimize, to the extent possible, noise resulting from the Oil or Gas Well Development.
- b. Prior to drilling of an oil or gas well or the operation of a natural gas compressor station or a natural gas processing plant, the applicant shall establish by generally accepted testing procedures, the

continuous seventy-two hour ambient noise level at the nearest property line of a residence or public building, school, medical, emergency or other public facility, or one-hundred feet from the nearest residence or public building, medical, emergency or other public facilities, whichever point is closer to the affected residence or public building, school medical, emergency or other public facility. In lieu of the establishment of the ambient noise level established by the continuous seventy-two hour test the applicant may assume and use, for the purpose of compliance with this ordinance, a default ambient noise level of 55 dBA. The sound level meter used in conducting any evaluation shall meet the American National Standard Institute's standard for sound meters or an instrument and the associated recording and analyzing equipment, which will provide equivalent data.

- c. The applicant shall provide the township documentation of the established ambient noise level prior to starting oil or gas drilling and/or production operations.
- d. The noise generated during the oil and gas operations or the natural gas compressor station or the natural gas processing plant shall not exceed the average ambient noise level established in subsection (2) by more than:
  - (1) 5 decibels during drilling activities,
  - (2) 10 decibels during hydraulic fracturing operations,
  - (3) 5 decibels for a gas compressor station or a natural gas processing plant,
  - (4) Allowable increase in subsection c shall not exceed the average ambient noise level for more than 10 minutes within any one-hour period,
  - (5) A cap of 73 decibels is allowable at the property line.
- e. Effective sound mitigation devices shall be installed to permanent facilities to address sound levels that would otherwise exceed the noise level standards when located near a residence, public building, school, medical, emergency or other public facilities.

- f. Exemption from the standards established in this subsection may be granted by the Township during the drilling stage or at the oil or gas well site, or the gas compressor station, or at the natural gas processing plant for good cause shown and upon written agreement between the applicant and the township.
- g. Operators shall make reasonable efforts to address any noise complaints received by Lykens Township within 24 hours following receipt of notification.
- h. Natural Gas Compressor Stations and Natural Gas Processing Plants or facilities performing the equivalent functions shall be constructed so as to mitigate sound levels, or have installed mitigation devices to mitigate sound levels so as to prevent such activity from being a nuisance to nearby residential or public buildings, medical, emergency or other public facilities.
- i. No operation of heavy equipment, trucks, or drilling or pumping apparatus shall be conducted between the hours of 7 p.m. and 7 a.m. daily, or on Sundays or holidays.
- j. The applicant shall demonstrate compliance with the noise standards contained in Section 1503.

7. Prohibitions.

- a. No drilling shall be allowed in the floodway designated as such on the FEMA maps.

**Section 3.** SEVERABILITY: If any sentence, clause, section or part of this ordinance is for any reason to be found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of Lykens Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**Section 4.** PENALTIES: Any Owner, Operator, or other person who violates or permits a violation of this chapter shall, upon being found liable therefore in a civil enforcement proceeding before a Magisterial District Judge, pay to Lykens Township a fine of a minimum of \$1,000, plus all court costs, including but not limited to accrued damages, public or private, and reasonable attorney's

fees incurred by Lykens Township on account of such violation. No penalty or cost shall be imposed until the date the determination of the violation by the Magisterial District Judge becomes final. If the defendant neither pays nor timely appeals the judgment, Lykens Township may enforce the judgment as provided by law. Each day a violation exists after final judgment shall constitute a separate offense. The amount of the fine imposed shall be multiplied by the number of such days and may be charged and collected by Lykens Township without further judicial proceedings. Further, the appropriate officers or agents of Lykens Township are hereby authorized, to issue a cease and desist notice and/or to seek equitable relief, including injunction, to enforce compliance herewith. No Bond will be required if injunctive relief is sought by Lykens Township. A person who violates this Ordinance shall also be responsible for Lykens Township's attorney's fees, engineering fees, expert fees and court costs reasonably incurred by Lykens Township on account of such violation.

**Section 5.** REPEALER: All other ordinances or parts thereof, which are in conflict with this ordinance are hereby repealed.

**Section 6.** EFFECTIVE DATE:

1. This ordinance shall take effect immediately upon enactment for all new oil and gas exploration applications.

